

Message Text

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ACTION EB-07

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PASS STR FOR MIKE SMITH

E.O. 11652: N/A
TAGS: ETRD
SUBJECT: TEXTILES: PROBABLY ISSUES IN MFA RENEWAL

1. FOLLOWING ARE SOME OBSERVATIONS ON BASIC ISSUES WHICH ARE LIKELY TO ARISE IN FORTHCOMING TC CONSIDERATION OF MFA RENEWAL. RECOGNIZING THAT "EC'S PROPOSALS" AND EXPORTING COUNTRIES' REACTION THERETO WILL UNDOUBTEDLY PROVIDE FOCUS TC DELIBERATIONS, DEVELOPMENT OUR TC STRATEGY AND TACTICS WILL REQUIRE PRECISE KNOWLEDGE OF EC'S PROPOSALS AS WELL AS POSITIONS WHICH MAJOR EXPORTERS HAVE DEVELOPED IN LAST WEEK'S HONG KONG "CAUCUS". US REP'S OBSERVATIONS BELOW ARE, THEREFORE, ONLY AN "ALERT LIST" OF ISSUES WHICH WILL PROBABLY BE AIRED WHATEVER EC'S PROPOSALS TURN OUT TO BE. ORDER OF PRESENTATION IS KEYED TO MFA TEXT AND HAS NO OTHER SIGNIFICANCE.

2. MINIMUM VIABLE PRODUCTION (MVP) CONCEPT SET FORTH IN ART. 1, PARA 2 AND ANNEX B, PARA 2 WILL REQUIRE SOME SORT OF "CLARIFICATION" IF NORDICS ARE TMO BE KEPT IN ARRANGEMENT. BOTH REFERENCES ARE QUALIFIED TO THE POINT THAT EVERY

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UNILATERAL ACTION TAKEN BY NORDICS IS CONTESTED IN TSB BY EXPORTERS ON GROUNDS THAT MVP "RIGHT" DOES NOT MEET QUALIFICATIONS, AND THEREFORE, PROVISIONS OF ART 3 AND ANNEX A MUST BE RIGIDLY APPLIED. MUCH INSISTENCE BY EXPORTERS IN TSB ON RIGID APPLICATION ANNEX A CRITERIA THESE ACTIONS, IS DUE EXPORTERS FEARS THAT EC (REGIONAL APPLICATION) AND CANADA, WHICH HAVE STRONGLY SUPPORTED NORDIC MVP CLAIMS IS PAST, WILL ATTEMPT

MAKE SIMILAR CLAIMS. PROBLEM WILL BE TO FIND SOME "UNDER-
STANDING" WHICH WILL MEET NORDICS' NEED BUT WHICH WILL ALLAY
EXPORTERS' FEARS OF EC-CANADA CLAIMS FOR SIMILAR TREATMENT.
VIEW GOODWILL CERTAIN MAJOR EXPORTERS TOWARD NORDICS' PROBLEM
AND RECENT NORDIC EFFORT MOVE AWAY FROM EC, BELIEVE THIS
ISSUE CAN BE RESOLVED PROVIDED EC AND CANADA DO NOT PUSH
TOO HARD.

3. THERE MAY BE SOME PROPOSALS TO REDRAFT ART 2 INTO
CONFORMITY WITH THE PRESENT SITUATION. BELIEVE, HOWEVER
THAT MAJORITY OF PARTICIPANTS WILL FAVOR SIMPLE EXTENSION OF
EXISTING MFA WHICH, IF CARRIED, WOULD NOT REQUIRE CHANGE
IN TEXT THIS ARTICLE.

4. IT APPEARS CERTAIN THAT THERE WILL BE SOME DISCUSSION
OF THE OBVIOUS CONFLICT BETWEEN THE PROVISIONS OF ART 3
AND ART 6 (AS INTERPRETED BY THE DEVELOPING COUNTRIES).
THE PROBLEM HERE IS THAT IMPORTING COUNTRIES TAKE THE
POSITION THAT THE PURPOSE OF MFA IS TO PREVENT MARKET
DISRUPTION AND, THEREFORE, THAT THEIR ART 3 RIGHTS ARE
PARAMOUNT OVER ANY PROVISIONS IN ART 6, ESPECIALLY IN LIGHT
OF THE CAVEAT SENTENCES AT THE END OF PARAS 1 AND 2 OF
ART 6. IT SHOULD BE NOTED THAT, WITH THE EXCEPTION OF JAPAN,
ALL MAJOR LOW-COST TEXTILE EXPORTERS ARE DEVELOPING COUNTRIES
(NOT TO GET INTO THE QUESTION OF HONG KONG'S STATUS) AND
THAT RIGID APPLICATION OF ART 6 PROVISIONS (LESS THE CAVEAT
SENTENCES) WOULD RENDER ART 3 USELESS IN PREVENTION MARKET
DISRUPTION. NEVERTHELESS, ART 6 IS AN ITEM OF DOGMA WITH THE
DEVELOPING COUNTRIES AND THEY MAY BE EXPECTED TO LEAN HEAVILY
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ON THE DEPRIVATION OF THEIR RIGHTS UNDER THIS ARTICLE,
PARTICULARLY IN THE CASES OF UNILATERAL ART 3 ACTIONS BY
IMPORTERS (INCLUDING THE NORDICS).

5. USE OF GATT ARTICLE XIX BY CERTAIN IMPORTING COUNTRIES
IS LIKELY TO BECOME A HOT ISSUE INDEED. IT IS THE FIRM VIEW
OF MOST EXPORTING COUNTRIES THAT RECOURSE TO ARTICLE XIX
HAS, FOR THEM AT LEAST, "THE EFFECT OF NULLIFYING THE
OBJECTIONS OF THE ARRANGEMENT" AS STATED IN MFA ART 9.
THEY WILL ARGUE THAT ULTIMATE RELIEF FROM ART XIX ACTION IS
RETALIATION AND THAT NO DEVELOPING COUNTRY IS IN A POSITION
TO RETALIATE. THE NON-GATT PARTICIPANTS IN MFA HAVE NO
RECOURSE WHATSOEVER AS THE MEXICANS WILL POINT OUT. WE
MAY EXPECT A MAJOR EFFORT TO ACHIEVE AN "UNDERSTANDING"
THAT USE OF ART XIX IS NOT LEGITIMATE ALTERNATIVE TO THE
MFA. CANADA AND AUSTRALIA WILL COME UNDER HEAVY FIRE ON
THIS ISSUE. THEY WILL RECEIVE NO SUPPORT FROM THE EC SINCE
THERE COULD BE NO "REGIONAL APPLICATION" OF ART XIX (FOR
INTERNAL AND TREATY REASONS) AND, FURTHER, A COMMUNITY-WIDE

APPLICATION WOULD REOPEN POSSIBLY DISRUPTIVE EC INTERNAL ARGUMENT ON BURDEN SHARING. PROBLEM HERE IS TO GET ART XIX MEASURES EXCLUDED WITHOUT LOSING CANADA AND AUSTRALIA. THIS WILL BE A MOST DIFFICULT PROBLEM.

6. THE EC AND CANADA MAY PRESS FOR AN EXPANSION OF THE TSB MEMBERSHIP. THERE MAY BE ALSO SOME EFFORT AT ABOLISHING THE THREE "PERMANENT" POSTS. BELIEVE, HOWEVER, THAT DIFFICULTIES IN AFFECTING ANY TSB CHANGES WILL BECOME VISIBLE EARLY ON AND THAT THIS PROBLEM WILL DISAPPEAR.

7. SOME INTERESTED EXPORTING COUNTRIES, INDIA, PAKISTAN AND OTHERS, MAY ATTEMPT TO OBTAIN AN "UNDERSTANDING" ON THE COTTAGE INDUSTRY WAIVER IN ART 12. MULTILATERAL AGREEMENT IN THIS AREA, FOR A VARIETY OF REASONS, IS MOST UNLIKELY AND WE MAY ASSUME THAT, IN THE END, THE PARTICIPANTS WILL AGREE TO LEAVE THIS PROBLEM TO BILATERAL SOLUTIONS.
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8. PARAGRAPH 1(A) OF ANNEX B IS ALSO LIKELY TO COME UNDER DISCUSSION. THE BASE PERIOD FORMULATION RULES CONTAINED THIS ARTICLE ARE, TO SAY THE LEAST, UNCLEAR. THE TSB HAS ON THREE OCCASIONS TRIED UNSUCCESSFULLY TO UNTANGLE THIS LANGUAGE. THE MFA NEGOTIATORS ACCEPTED AND TRIED TO SOLVE A PECULIAR PROBLEM FOR CANADA. UNFORTUNATELY THEY ALSO ACCEPTED THE ADDITIONAL CLAUSE AT END LAST SENTENCE WHICH RENDERS AN AGREED INTERPRETATION IMPOSSIBLE.

9. FINALLY, WE MAY EXPECT THE QUESTION OF NEGOTIATION OF TEXTILE TARIFFS IN THE MTN TO ARISE. EXPECT WE WILL TAKE POSITION THIS QUESTION IS OUT OF ORDER, BUT DOUBT IF WE COULD GET MUCH SUPPORT. EC AND SOME MAJOR EXPORTING COUNTRIES (THIS WAS AGENDA ITEM IN HONG KONG CAUCUS) WILL PRESS FOR TC DISCUSSION THIS ISSUE. SORENSON

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